

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

-against-

19-cr-0780 (LAK)

SYLVIA ASH,

Defendant.
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**ORDER ON GOVERNMENT’S
SUPPLEMENTAL *IN LIMINE* MOTION**

LEWIS A. KAPLAN, *District Judge*.

The government’s letter request for additional rulings *in limine* and other relief, dated November 23, 2021 (Dkt 121) is disposed of as follows:

Point I

The government seeks a ruling precluding defendant from offering evidence or argument - including in her opening – concerning the quality of her former counsel’s representation or his involvement in her conduct.

In view of the fact that the defendant has committed not to refer to calling any witness in her opening statement or to open on any argument about the quality of defendant’s former counsel’s representation, the motion to this extent is moot. The government, moreover, concedes that if it were to argue that the pertinent alleged falsehood was caused by the defendant, the defendant might be entitled to call her former counsel or otherwise to offer admissible evidence to counter that argument. The line between doing that, however, and offering evidence that would suggest, explicitly or implicitly, that any inaccuracy in the pertinent letter was a mistake by former counsel or attributable to counsel’s involvement in other “relevant” conduct, all or some of which evidence may not be admissible is a fine one. Accordingly, the defendant shall not offer any evidence or argue in opening statement on this entire subject without first proffering to the government and the Court, in writing, exactly what evidence or argument would be offered or made.

Point II

The government seeks to preclude defendant from opening on or offering evidence or argument on the subjects of the extent of the government's investigation and prosecution of this matter or the alleged existence of a more appropriate forum to address the facts of this matter. The motion to that extent is granted, *provided, however*, that, as previously indicated, the Court will make clear that the defendant is "not being prosecuted her for misconduct in her capacity as a sitting judge."

Point III

Denied as moot.

Point IV

The Court will deal with any issues that remain on this point at trial.

Reciprocal Discovery

In view of defendant's agreement to comply with her reciprocal discovery obligations, this aspect of the motion is denied as moot.

SO ORDERED.

Dated: November 28, 2021

Lewis A. Kaplan
United States District Judge